D.B. CIVIL SPECIAL APPEAL(W)NO.649/2007

Bachitra Singh & Ors.
Vs.
Indraj & ors.

Date of Order :: 19-07-2007

HON'BLE THE ACTING CHIEF JUSTICE SHRI J.M. PANCHAL
HON'BLE SHRI JUSTICE BHANWAROO KHAN

Mr. Kishan Bansal, for the appellants.

PER HON'BLE THE ACTING CHIEF JUSTICE J.M. PANCHAL

By filing the instant appeal under Section 18 of the Rajasthan High Court Ordinance read with Rule 134 of the High Court Rules, the appellant has challenged legality of order dated July 5, 2007 rendered by the learned Single Judge in Civil Writ Petition no.1829/2007 by which the prayer made by the appellant to set aside the order of the trial court to refer the matter to the competent authority for the purpose of determining the question whether proper stamp duty was paid or not, is rejected.

This Court has heard Mr. Kishan Bansal, learned counsel for the appellant. The record indicates that the appellant has filed the suit for permanent injunction against the defendants impleaded therein. In support of his prayer for permanent injunction, the appellant produced an agreement before the trial court. The trial court was of the view that agreement dated December 17, 2005 was insufficiently stamped and therefore

referred the matter to Inspector General(Stamps) to determine the question whether the document was sufficiently stamped or not. Thereafter necessary enquiry was made by the competent authority acting under the provisions of Stamp Act and the said authority has come to the conclusion that document was insufficiently stamped. The plea that reference should not have been made to the competent authority to determine the question whether agreement in question was sufficiently stamped or not, has no substance. The reference by the civil court to the competent authority stands justified in view of the finding recorded by the competent authority to the effect that the agreement in question was insufficiently stamped. It is an admitted position that the order of the competent authority is accepted by the appellant and not challenged before the higher forum. Under the circumstances, this Court is of the opinion that the learned Single Judge was justified in dismissing the writ petition filed by the appellant. No ground is made out by the learned counsel for the appellant to interfere with the order impugned in the appeal. Therefore, the appeal which lacks merit deserves to be dismissed summarily.

For the foregoing reasons, the appeal fails and is summarily dismissed.

[BHANWAROO KHAN],J. [J.M.PANCHAL],ACTG.CJ.

Praveen